IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

CIVIL REVISION APPLICATION NO. 101 OF 2007

Smt. Abakka @ Akawwa Shetty.... Petitioner

versus

Dr. Vikram Shantaram Ghole & anr..... Respondent.

Shri P.S.Dani for the petitioner

CORAM; A.P. DESHPANDE, J.
DATED; 10TH APRIL, 2007

P.C.;

1. The respondent landlord initiated proceedings for ejectment and possession against the petitioner tenant by filing a suit. Possession was sought on two grounds : 1) that the petitioner tenant has acquired a suitable alternate accommodation by constructing a residential house on a plot of land admeasuring about 3000 sq.ft. and 2) that the user was changed.

2. It has not been disputed that two rooms in question were let out for residential purpose whereas the petitioner also carrying on business in the same building by running a hotel on the ground floor. It was urged by the present petitioner before the courts below that the said residential accommodation is necessary to look after the business of hotel, which is being carried out in the same building. The trial

court passed a decree on both the grounds whereas the first appellate court has restricted the same on the ground that the petitioner has acquired a suitable alternate accommodation by constructing a residential house. As the courts below have concurrently found in favour of the respondent that a case is made out for ejectment of the petitioner on the ground that he has acquired alternate suitable accommodation, the said finding of fact does not need to be interfered with as it is based on evidence on record. Convenience of petitioner for managing the hotel business cannot be dominant factor on the basis of which relief could be denied to the respondent/plaintiff. As the petitioner has secured suitable alternate accommodation, the judgment and decree passed by the courts below is not required to be interfered with. In the result CRA stands dismissed summarily.

5. At this stage, the learned counsel for the petitioner shows his willingness to furnish an undertaking to the court that he would vacate the tenanted premises and hand over the possession to the respondent if reasonable time is granted to vacate the premises. Touching this aspect alone, issue notice returnable in two weeks. Hamdast allowed. Till the returnable date statusquo in regard to the possession be maintained.

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